

# **EXHIBIT J**

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- RACHEL KELLY -

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RAFAEL FOX, ET AL.,

V. CIVIL CASE NO.

1:19-CV-04650-AJN-SN

STARBUCKS CORPORATION,

Defendant.

-----X

DATE: SEPTEMBER 2, 2020

TIME: 11:15 A.M.

VIDEOCONFERENCE DEPOSITION OF RACHEL  
KELLY, pursuant to Notice, before Hope Menaker, a  
Shorthand Reporter and Notary Public of the State  
of New York.

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2 where it was split into the division.

3 Q. What -- sorry, I thought you were  
4 done. I didn't mean to cut you off. Please  
5 continue.

6 A. I don't -- I was going to say I don't  
7 recall the exact date.

8 Q. When you were Director of Partner  
9 Resources, what positions, if any, reported to you  
10 as their direct supervisor?

11 A. So Partner Resources Managers and the  
12 HR Compliance Specialist Senior.

13 Q. What sort of training, if any, did  
14 you undergo in connection with becoming Director  
15 of Partner Operations the first time in September  
16 2016?

17 MR. MOY: Objection.

18 A. So based on my recollection, I was  
19 assigned Partner Resources Director mentor. I was  
20 given a training plan where I would, you know,  
21 meet with other HR representatives in the company  
22 to learn about their roles and how we would work  
23 together.

24 There was, you know, ongoing  
25 trainings that we had as a selective group for

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2 worked under you when you were Director of Partner  
3 Resources in New York?

4 A. In the entire time or at one time  
5 directly reporting to me?

6 Q. At a given time, how many positions  
7 were there?

8 A. At a given time, two to three.

9 Q. Were they split up amongst the  
10 geographic zones?

11 A. Correct.

12 Q. Other than human resources managers,  
13 who else, if anybody, reported to you as their  
14 immediate supervisor when you were Director  
15 Partner Resources in New York?

16 A. The senior HR compliance specialist.

17 Q. Was there more than one such  
18 individual during your tenure there?

19 A. Yes.

20 Q. Was there more than one at a time?

21 A. No.

22 Q. Who were the individuals who held  
23 that position?

24 A. Tina McDonald and Monica Maddock.

25 Q. During what period of time did Monica

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2 Maddock hold the job?

3 A. February 2019 to present.

4 Q. During what period of time did Tina  
5 McDonald hold the job?

6 A. November 20, 2017. And we did have a  
7 bit of a transition period from -- Tina was  
8 promoted to a Partner Resources Manager, so there  
9 was a time lapse in between Tina's promotion to  
10 the time that Monica went into position. So I  
11 can't remember the exact dates of Tina's  
12 promotion, but she held the position up until  
13 Monica took it.

14 Q. Did somebody hold that position  
15 immediately prior to Tina McDonald?

16 A. In New York Metro?

17 Q. Yes.

18 A. No.

19 Q. Do you have an understanding of why  
20 it was that a decision was made to hire somebody  
21 for that position in New York Metro?

22 MR. MOY: Objection.

23 A. Yes.

24 Q. Can you explain.

25 A. Yes. So the person was put into --

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2 the decision was made as to support the  
3 implementation and execution of the Fair Workweek  
4 legislation that was due to come about in November  
5 2017.

6 Q. Apart from Ms. McDonald's role in  
7 connection with that legislation, did she have any  
8 other duties or responsibilities in connection  
9 with her role as Partner Resources -- excuse me,  
10 as a Senior HR Compliance Specialist?

11 A. That would be the primary function of  
12 her role. Some of the other things that she did  
13 would be to work on -- or consulting on, you know,  
14 tools, processes to support that, or other systems  
15 that would be in support of that legislation and  
16 then, you know, document, collection and retention  
17 in support of that, and then training in support  
18 of the legislation.

19 Q. Does Ms. Monica Maddock have the same  
20 role and responsibilities as Tina McDonald did  
21 when she held the position?

22 A. Yes.

23 Q. Has anything else been incorporated  
24 into the duties of the Senior HR Compliance  
25 Specialist apart from Fair Workweek?

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2 are other, you know, specific things as in like  
3 partner care, partner safety, wage and hour, you  
4 know, Fair Workweek in certain situations.

5 Q. As far as you know during his  
6 employment, did Rafael Fox make any complaints  
7 that bared on health and safety issues?

8 A. I was informed of that at, you  
9 know -- obviously it's a part of this case, so I  
10 am aware of it. He raised a concern.

11 Q. As of the points in time when Mr. Fox  
12 separated from his employment, were you aware if  
13 he had at any point during his tenure raised  
14 complaints about matters of health or safety?

15 A. No.

16 Q. As of the time he separated from  
17 employment, were you aware of whether Mr. Fox had  
18 raised complaints or concerns about wages being  
19 unpaid for certain employees?

20 A. At the time of his separation?

21 Q. Yes.

22 A. Was that -- no, I was informed after  
23 the separation.

24 Q. What store did Rafael Fox manage at  
25 the time of his separation?

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2 A. If I recall correctly, West Broadway  
3 and Leonard.

4 Q. Who preceded him as manager of that  
5 store?

6 A. I'm sorry, I don't recall the  
7 partner's first name, or full name. I believe the  
8 partner's first name was William.

9 Q. Do you have any information about the  
10 circumstances of William's leaving his role as  
11 manager of that store?

12 A. (No audible response.)

13 Q. Could you describe what you know  
14 about that subject?

15 A. Yeah. It's my understanding that  
16 William was separated for violations of wage and  
17 hour. And that as Rafael came in, he was asked to  
18 make adjustments, I believe, to correct those  
19 inaccuracies of wage and hour. That's my  
20 understanding of the situation.

21 Q. Who was the District Manager at the  
22 time that Will was separated?

23 A. It's my understanding that it was Les  
24 Sable, but I also believe that there was a  
25 transition between Les and Tim like right around



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2 former manager Will?

3 MR. MOY: Objection.

4 A. So -- so the District Manager is  
5 involved in the investigation itself. I'm not  
6 sure who Les worked with from Partner Resources in  
7 that particular investigation. Again, it would  
8 have either been Partner Resources Manager or  
9 someone within the PRSC.

10 Q. Were the partners who were owed money  
11 due to whatever misconduct by Will compensated for  
12 any losses that he caused them?

13 A. It is my understanding that yes, they  
14 were all compensated.

15 Q. Were they compensated prior to Rafael  
16 Fox becoming Store Manager of that location?

17 A. Again, it's my understanding that  
18 Rafael was asked by Les to make those corrections  
19 to ensure that they were paid accurate. Again,  
20 that's my understanding.

21 Q. What is the source of information for  
22 that understanding, your source of information?

23 A. Yeah. Conversations with Les and  
24 conversations with Tim.

25 Q. What, if anything, did you discuss

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2 see there's two entries 9-18, and they have the  
3 description "supplies pest"?

4 A. Uh-huh.

5 Q. Just for the record, could you say a  
6 word?

7 A. Yes.

8 Q. Do you see in the first it says,  
9 supply pest lines, the amount is 24.30-something?

10 A. Yes.

11 Q. We can put aside that document. Was  
12 it your decision to hire Tina McDonald for a new  
13 position in the district as senior compliance  
14 manager?

15 A. Yes. In the region. Not in the  
16 district, but in the region, yeah.

17 Q. Was it your decision to create that  
18 position in the district in the region?

19 A. No.

20 Q. Who decided to create that position?

21 A. My predecessor had requested that the  
22 position is funded, and got the approval to do so.

23 Q. And did you then make the first hire  
24 into the position?

25 A. I did.

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2 Q. What was the process for identifying  
3 and then selecting among candidates?

4 A. Sure. So this position was certainly  
5 going to be one of importance, and so the first  
6 step that I did was shared the job overview,  
7 expectations of the role, and just some guidelines  
8 of what we were looking to have this person do in  
9 support of the Fair Workweek legislation that was  
10 upcoming. I shared that with the Regional  
11 Directors in the region and the Partner Resource  
12 Managers, and certainly Robyn and Tracy, the RBT,  
13 and our recruiting team to just talk about who  
14 might be a really good candidate for the position.

15 We identified this was going to be an  
16 internal partner that would move into the role  
17 because of the nature of the job and the  
18 importance of understanding our Starbucks  
19 processes and protocols as it would relate to the  
20 expectations of the job.

21 So I shared that with the regional  
22 leaders, asked them to think about individuals on  
23 their respective teams, talk to their District  
24 Managers and identify who might be interested in  
25 the role and who they would assess based on

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2 performance, interest, knowledge of operational  
3 protocol, et cetera, who might be a good candidate  
4 to interview for the position.

5 From there, two Regional Directors  
6 put forward two candidates. One was an Anaiad  
7 Espinosa, and the other was Tina McDonald. I  
8 asked Robyn to conduct the interviews with me,  
9 given that this person would interface heavily  
10 with the two of us and certainly my respective  
11 teams. We interviewed both candidates together,  
12 and I made the final decision to offer the job to  
13 Tina.

14 Q. When you referred a moment ago to  
15 Robyn, are you referring, just for the record, to  
16 the woman you identified as Starbucks in-house  
17 counsel Robyn Ruderman?

18 A. That is correct.

19 Q. And you and she jointly interviewed  
20 and selected Tina?

21 A. We interviewed Tina together. I made  
22 the selection of Tina.

23 Q. Which Regional Director put forward  
24 Tina McDonald as a candidate?

25 A. Ron Shuler.

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2 Q. Did you read anything?

3 A. No.

4 Q. Who devised the training program for  
5 employees at Starbucks in New York in connection  
6 with the Fair Workweek Law?

7 MR. MOY: Objection.

8 A. Can you clarify just a little bit in  
9 more detail what you're looking for as it relates  
10 to training program.

11 Q. Sure. Was training provided to Store  
12 Managers at Starbucks in New York concerning the  
13 Fair Workweek Law?

14 A. Yes.

15 Q. Can you describe what that training  
16 involved?

17 A. Sure. We had a series of both formal  
18 and informal training sessions. You know, I'll  
19 talk about what we did leading up to the  
20 implementation of the law, and then that's  
21 certainly sustaining training efforts as well. So  
22 as I shared, I joined the New York Metro team the  
23 first week of October in 2017, and the previous --  
24 my predecessor had outlined some expectations for  
25 training.

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2 So we followed through with those and  
3 then we added some supplemental things. So the  
4 first training session that was provided was at  
5 the Store Manager summit in the areas that would  
6 be applicable for the predictability, or for the  
7 Fair Workweek legislation. So we had three areas  
8 that had stores within the five boroughs of New  
9 York. So area 76, which was Ron Shuler's area;  
10 Area 146, which was Carla Ruffin's, area 82 which  
11 was Kate McShane's, and then, and then a portion  
12 of area 75 which was Alexis Vertucci. There were  
13 three districts.

14 The first training session that I was  
15 involved in, like I said, was at the -- for  
16 managers' summit. We brought in someone from  
17 Seattle to lead this training for the Store  
18 Managers. These summits were held over the course  
19 of two weeks between October the 10th and the  
20 17th. All Store Managers and District Managers  
21 were in attendance as well as some of the regional  
22 leadership team, support partners, business  
23 partners, et cetera.

24 The training session that was given  
25 to Store Managers at that summit was approximately

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2       a 90-minute session. It was led by Sandy Ellison,  
3       as I shared, the person that came in from Seattle;  
4       and she walked the Store Managers through our Fair  
5       Workweek training guide. In addition to that, we  
6       shared barista needs to know, a Store Manager  
7       needs to know, and a District Manager needs to  
8       know, and introduced what would be the schedule  
9       change log that would come to fruition once the  
10      law went into place.

11                      So that was the first occasion for  
12      training. For formal training, I should say.  
13      Sorry, go ahead.

14              Q.       That first occasion, were the  
15      training materials distributed or provided to the  
16      Store Managers to keep?

17              A.       They were.

18              Q.       Were they handed out on paper at the  
19      training or something else?

20              A.       I don't know if it was handed out. I  
21      think they were placed on like the tables of the  
22      participants, but it was on paper.

23              Q.       Date-wise I believe you already  
24      specified the range of time that this first  
25      training occurred. What is the next phase of

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2 training that happened?

3 A. Yes. So from there, in an ongoing  
4 basis as we learned more about how we were going  
5 to implement the processes at Starbucks or how --  
6 you know, as we were learning details on what we  
7 were anticipating from a legislation standpoint,  
8 we would provide updates to the regional  
9 leadership team at the weekly huddles. So this  
10 was the Regional Directors, our Partner Resources  
11 Manager, the RBT, and we just provide updates on  
12 an ongoing basis to keep everybody in tune to what  
13 was coming and what the plans were.

14 We were anticipating the detailed  
15 regulations of the -- excuse me, that there would  
16 be legislation to come out a little so sooner than  
17 they did. So we had put forth a plan to train the  
18 managers throughout the month of November, but we  
19 weren't ready to do that because we didn't have  
20 the detailed regulations, and many of our  
21 processes were going to be dependent on that.

22 So we continued to work on the  
23 documents in preparation, and the next training  
24 sessions that we held were November 14th through  
25 November 17th. This, again, was an opportunity



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2 for us to train all of the Store Managers, all of  
3 the District Managers, and all of the Regional  
4 Directors in greater detail with the training  
5 guide. And that had more of the additional  
6 processes in place and new documents to share with  
7 them at that training.

8 So that was a two-hour session, and  
9 we generally broke it up to about two districts at  
10 a time, and they were facilitated in partnership  
11 between the Partner Resources Managers, myself, I  
12 believe Robyn shared and did some co-facilitation  
13 at times and answered questions, and we conducted  
14 those through the course of that week.

15 On November the 17th, which was the  
16 conclusion of that week, we compiled all of the  
17 outstanding questions that arose during those  
18 training sessions. Things that we may not have  
19 been able to answer in the moment or still wanted  
20 to provide, like get clarity and calibrate on. So  
21 we compiled those as a Partner Resources team and  
22 had a chance to work through those. On November  
23 17th, I followed up with an e-mail to the  
24 regional -- I'm sorry, the District Managers and  
25 the Regional Directors just outlining some of the

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2 key things that we covered in the training in  
3 anticipation of the law going live on November the  
4 24th, and reinforcing some of the standards that  
5 were shared in those training sessions. So more  
6 of an inform reinforcement of the time training  
7 that we provided.

8 That following Monday, on November  
9 the 20, we again just reviewed some of the  
10 training materials with the regional leadership  
11 team, talked through some those Q and A, and just  
12 really talked about, you know, if there are any  
13 needs or anything else that we wanted to put in  
14 place leading up to the go live date.

15 Then from there, the Fair Workweek  
16 legislation went live on November the 24th. So  
17 the day that it went live, I sent a message to the  
18 applicable stores, the District Managers, the  
19 regional leadership team, again outlining key  
20 components of the legislation, some of the key  
21 points around our expectations, the processes, and  
22 certainly opening the door that if they had  
23 questions, to reach out to their leader, their  
24 Partner Resources Manager.

25 And then from there, the following

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2       week -- or I'm sorry, that was the go live date.

3       The following week we opened it up to office

4       hours, so each R&D lead had set up a working

5       partnership with their PRM to, you know,

6       communicate out and just hold some time on their

7       calendar the following week to be available if

8       questions were to come up. And then, you know, I

9       would say there are many updates, written

10      communication, reminders that were sent out via

11      e-mail either through myself or Tina.

12                 We also held a following -- we held a

13      make-up session to that training the first week of

14      December for anybody that might have missed that

15      Store Manager training that I had shared. And

16      then from there, we would continue to, on a weekly

17      basis, provide the team with hypothetical -- when

18      I say team, I'm sorry, more specifically provide

19      Store Managers, District Managers, Regional

20      Directors either reinforcement to some of the

21      standards, updates if they were applicable,

22      scenarios, really teaching and guiding them on how

23      to handle situations as they arose.

24                 And then from there we did periodic

25      trainings, updates. Specifically, you know, Tina

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2 would join huddles the RDs would have with their  
3 District Managers. Tina would join huddles that  
4 DMs had with their Store Managers. We would be  
5 out in the Field in stores actually going through  
6 and kind of checking the information and providing  
7 on-the-spot coaching and helping the teaching  
8 coach in more of a one-or-one or two-on-one basis.  
9 And certainly available all the time in regards to  
10 questions. And then we had kind of a sustainment  
11 training plan from there.

12 So hopefully that gives you a little  
13 bit of an introduction of what we did to prepare  
14 the team, but I can certainly provide  
15 clarification if needed.

16 Q. Did you ever go in person to Rafael  
17 Fox's store for any purpose?

18 A. I did not.

19 Q. Who would -- created the written  
20 training materials that you mentioned?

21 A. So the Fair Workweek training guide  
22 was created prior to me stepping into position.  
23 So I don't know who collaborated to put that  
24 together specifically. Sandy Ellison, the person  
25 that flew in from Seattle to lead the training,

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2 questions, but not in a formal way that I think  
3 you're asking about.

4 Q. You mentioned the date when the Fair  
5 Workweek Law I think you said went live on  
6 November 24, 2017; is that the correct date?

7 A. That is correct.

8 Q. Leading up to that time, did  
9 Starbucks have a plan in place to conduct audits  
10 to assess compliance with the Fair Workweek Law by  
11 stores upon the law taking effect?

12 MR. MOY: Objection.

13 A. Can you just clarify what you mean by  
14 "audit."

15 Q. Was this any mechanism planned  
16 whereby you were planning to somehow ascertain  
17 whether stores were complying fully with the new  
18 regulations?

19 A. Sure. So there's a couple of ways  
20 that we verify. One is to physically go into the  
21 stores and talk to the partners, talk to the  
22 leaders, and physically check whether or not the  
23 standards were in place; and that would be a part  
24 of the DM's role and responsibility. We talked  
25 about the importance of leading this at a high

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2 level and really all of us taking ownership  
3 because of the importance in creating a great work  
4 environment for our partners and taking that  
5 collective ownership around this.

6 So we also talked about, you know,  
7 RDs making sure they understood Partner Resources  
8 Managers so that Tina certainly as a compliance  
9 specialist so that they could go in and they could  
10 check in with partners, follow up to the things  
11 that we were putting in place. So that was one.

12 Secondly, we did put together an  
13 audit in that Tina as part of her role would have  
14 a consistent mechanism for evaluating the  
15 standard, the processes and the protocols around  
16 the Fair Workweek legislation and other components  
17 tied to that; and so that was a formal audit that  
18 she had in place.

19 From there, eventually we started to  
20 recognize that that could be valuable for District  
21 Managers as well. So the DMs were given the audit  
22 also to leverage, and the expectation for the  
23 audit from a DM standpoint was that they would do  
24 that periodically throughout the year based on  
25 their cadence with their stores.

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2 And I think those are probably the  
3 three main ways that we talked about kind of  
4 auditing issues better or validating that things  
5 were happening in our stores.

6 And then we hadn't gotten to this  
7 yet, but we do a quarterly document collection in  
8 the region for the documents that are associated  
9 with the Fair Workweek legislation. So once those  
10 documents come in, we actually audit the documents  
11 from there, and then provide feedback back to the  
12 leaders so that they can go back into the stores,  
13 circle back to the partners, the leaders, and  
14 follow up in greater detail. Those are some of  
15 the mechanisms we had in place for validation and  
16 follow-up.

17 Q. When did the audits by Tina McDonald,  
18 which were in the list that you just explained,  
19 when did those audits begin?

20 A. Yeah. So we had more of an informal  
21 audit, you know, that Tina did, right, where she  
22 would go in and she would check the standards; and  
23 then, as I said, eventually we had put the formal  
24 audit in place. So Tina started in her role on  
25 November the 20th. The law went live on the 24th,

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2 A. So specifically the more formal  
3 audit. So are you asking if she conducted a  
4 formal -- yeah, can you provide me a little more  
5 detail on what you're looking for there.

6 Q. Sure. You said that there was a  
7 point in time when she began conducting more  
8 systematic audit mechanisms. My question now is  
9 whether that point in time came prior to Mr. Fox's  
10 separation or if it started after he was  
11 separated?

12 A. I -- I don't recall exactly. I would  
13 say it was around that time. I don't recall  
14 specifically if was right before, right after.

15 Q. Is it fair to say that you're aware  
16 of a complaint that was made about Mr. Fox related  
17 to Fair Workweek compliance to the Department of  
18 Consumer Affairs?

19 A. Yes.

20 Q. When did you first become aware of  
21 the fact that that complaint had been lodged?

22 A. I believe it was on January the 10th  
23 of 2018.

24 Q. Had Ms. McDonald begun conducting her  
25 more formalized audits as of that date?



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2 MR. MOY: Objection.

3 A. No.

4 Q. What, if any, involvement did you  
5 have in handling the complaint after you became  
6 aware of it?

7 A. Well, so once I was -- once I was  
8 made aware of it, I directed Tina and Brad to go  
9 to the store, to Rafael's store specifically to  
10 look into the Fair Workweek standards and the  
11 concerns. I can't remember if we had the exact  
12 concerns. I don't recall what the partner shared  
13 as their specific concern, but I know it went to  
14 the Department of Consumer Affairs. We were  
15 informed, and I directed them to go in really to  
16 evaluate the compliance around the Fair Workweek  
17 standards.

18 Q. Were you aware at that time of the  
19 identity of the person who lodged the complaint?

20 A. I don't believe so. I don't -- I  
21 don't recall knowing the name of the partner that  
22 made the complaint.

23 Q. Did you at some point in time come to  
24 learn the name of the partner who made the  
25 complaint?

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2 notes created the created by the Department of  
3 Consumer Affairs in connection with the interviews  
4 of Starbucks partners?

5 A. Not that I recall.

6 Q. You had mentioned I think that you  
7 became aware of the complaint on January 10th, and  
8 that you directed Tina McDonald and Brad Jennison  
9 to go to the store. Do you know what date they  
10 did that?

11 A. I believe that was on -- I believe  
12 they did that the following day, on January the  
13 11th.

14 Q. Did they report back to you after  
15 they visited his store?

16 A. They did.

17 Q. Did they provide you with any written  
18 summary of their visit?

19 A. I -- yes. And Robyn Ruderman was  
20 also copied, and I do believe it was titled as  
21 attorney-client privileged.

22 MR. GRAFF: Now, for the record, to  
23 the extent there is any nonprivileged  
24 document of that sort, we'd request  
25 production of all in writing as with other

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2 requests during the deposition.

3 MR. MOY: Off the record.

4 (Whereupon, a brief discussion was  
5 held off record.)

6 Q. Ms. Kelly, did Tina McDonald send you  
7 any communication detailing the facts that she  
8 gathered and observed while visiting Mr. Fox's  
9 store on January 11th?

10 MR. MOY: Objecting.

11 A. Yes.

12 Q. Was the e-mail that she sent you with  
13 those facts also copied to legal counsel?

14 A. Yes.

15 Q. As best you recall, what were the  
16 facts that Tina communicated to you based on her  
17 visit on January 11th?

18 A. So based on my recollection of her  
19 visit to Rafael's store on January 11th, she had  
20 identified that there were four schedules that  
21 were posted under the -- posted late, so with less  
22 than 14 days' notice. She had also identified  
23 that Rafael had hired a person into Starbucks  
24 externally, and the internal partners that had  
25 reached out who were interested in those hours,

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2       that Rafael did not get back to them, did not  
3       respond to them.

4                       She also shared that predictability  
5       pay was not paid where it was to be incurred as  
6       aligned with those late schedules that I had  
7       previously mentioned. And she also gave an  
8       example where Rafael had reached out to her and  
9       asked a specific question regarding a partner on  
10      whether or not they were owed predictability pay;  
11      and that she directed him to pay the partner. But  
12      upon visiting the store, had identified that he  
13      never did pay that partner. Sorry, go ahead.

14           Q.       Are all of these findings --

15           A.       So --

16           Q.       I'm sorry. If you're not done  
17      answering, please finish your answer. I'm not  
18      trying to speak over you.

19           A.       Yeah, no worries. Yeah, there were  
20      some additional requests -- additional components  
21      as well.

22                       She also stated that Rafael didn't  
23      appear to be forthcoming around his violations of  
24      the predictability pay. When she was reviewing  
25      the logs, the schedule change logs specifically,

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2       Rafael had been completing those logs as the Store  
3       Manager. And she also noted that there was -- a  
4       partner consent was missing on a number of  
5       occasions as she reviewed those logs.

6                       I know they also had some  
7       conversation and she talked with Rafael, but I --  
8       I wasn't there, so I can't speak to the specifics  
9       of those dialogues, but that was really the  
10      overview of what she reported back.

11           Q.       And this is all information she  
12      reported back based on her first visit on January  
13      11th?

14           A.       The -- I'm not exactly sure when the  
15      conversations happened with Rafael. The  
16      components that I shared around the late  
17      schedules, the log and him not getting back to the  
18      partners, and the question that he had asked, yes.  
19      She did respond, yes she did share that.

20           Q.       Did Ms. McDonald make more than one  
21      site inspection to Mr. Fox's store?

22           A.       I believe so.

23           Q.       When was the second such visit?

24           A.       I believe she went back the following  
25      week, if I recall correctly.

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2 Q. If I suggest that it might have been  
3 the 16th, does that ring a bell or you're not  
4 sure?

5 MR. MOY: Objection.

6 A. I believe it was the following week.  
7 I don't recall the exact day.

8 Q. In substance, what did Tina  
9 communicate to you about whatever new information  
10 she discovered on that second visit?

11 A. Yeah. So I think in the second visit  
12 it was more details around her findings, and I  
13 believe that was -- I would be guessing. I  
14 believe that's when she shared more about her  
15 conversations with Rafael.

16 Q. Who was the associate who  
17 Ms. McDonald had directed him to pay but hadn't  
18 been paid?

19 A. I don't recall that person's name,  
20 I'm sorry.

21 Q. Do you believe their name would be  
22 documented in any of your written communications  
23 with Ms. McDonald or others about this  
24 investigation?

25 MR. MOY: Objection.

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2 A. Yes.

3 Q. One of the items you had mentioned  
4 was in connection with Mr. Fox allegedly not  
5 getting back to certain internal partners who  
6 wanted certain available positions. Was it your  
7 understanding that there were any timely  
8 communications from partners who would have been  
9 eligible to take this position -- that position?

10 A. It is my understanding that yes,  
11 there were partners that had reached out and  
12 expressed interest to Rafael.

13 Q. Is there a period of time after  
14 posting within which managers are required to  
15 express interest if they're interested?

16 A. If managers are or partners? We're  
17 talking about hourly partners.

18 Q. Partners.

19 A. So we're required to post the  
20 opening, the recurring shift for three days in all  
21 the stores in the respective borough. There's not  
22 a legal requirement on how long you have to wait  
23 thereafter before you can make a hire. However,  
24 it is noted that preferential preference should be  
25 given to internal partners who express interest

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2 over hiring externally. So it would be dependent  
3 on individual situations and the timing of that  
4 situation.

5 Q. Is it your understanding that there  
6 were partners who within the three-day posting  
7 period expressed interest and Mr. Fox did not  
8 respond?

9 A. So that wasn't my intention to  
10 express that, if that was how you interpreted it.

11 Q. I'm not --

12 A. The posting -- okay. The posting is  
13 required to be up for three days so that partners  
14 within the respective borough have an opportunity  
15 to see it. It's not expected that they are  
16 required to reach out within that three-day time  
17 frame, within a reasonable time frame.

18 Q. Did you have any interaction with  
19 Mr. Fox in connection with his hiring of an  
20 outside person?

21 A. I did via e-mail.

22 Q. Can you describe the interaction.

23 A. Yes. So based on based on my  
24 recollection, there were a couple of instances  
25 that Rafael had e-mailed either asking questions



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2 subsequent visit, as far as you know, was she  
3 accompanied by anyone?

4 A. I don't recall either way. Sorry, I  
5 don't recall.

6 Q. You had referred earlier to  
7 Ms. McDonald telling you about how there had been  
8 a prior e-mail and she had directed Mr. Fox to pay  
9 a partner, and she later determined the partner  
10 hadn't been paid.

11 A. Uh-huh. That's correct.

12 Q. Apart from that prior direction that  
13 had been given prior to Tina's visits, did  
14 Ms. McDonald tell you that she had directed  
15 Mr. Fox to take any actions during either of her  
16 visits?

17 A. Can you clarify what you're looking  
18 for in taking any actions?

19 Q. Did Ms. McDonald direct Mr. Fox to  
20 take any action to correct whatever problems she  
21 identified?

22 A. I wasn't there, so I don't know what  
23 kind of information she shared with him at the  
24 time.

25 Q. Is it your understanding that Mr. Fox

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2 with Tina.

3 Q. Did he share any information that was  
4 new or different than what Tina had already shared  
5 with you?

6 A. No.

7 Q. After Tina McDonald's second visit to  
8 Mr. Fox's store, which you said took place the  
9 week after January 11th, what is the next step or  
10 thing that happened in the investigation process?

11 A. Yeah. I know the sequencing of the  
12 details might just -- you know, I just want to put  
13 that out there. We also validated that Rafael  
14 attended training, because this was a new law that  
15 went into place. We wanted to make sure that he  
16 had, in fact, attended the training and had the  
17 knowledge of the standards and of the expectations  
18 that were set forth to Store Managers. Brad did  
19 validate that Rafael attended training on November  
20 the 14th.

21 We also had Tina visit some other  
22 locations in the district just to get an  
23 understanding of, you know, how the standards and  
24 expectations were being implemented across that  
25 portfolio of stores, did a spot check in a couple

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2 of other locations within Tim's district. And  
3 then, you know, I know there were certainly  
4 detailed follow-up conversations to, you know,  
5 validate. I know Tina did a number of document  
6 collections so that we could report back to the  
7 Department of Consumer Affairs.

8 And so we really worked to put the  
9 information together in regards to responding to  
10 that complaint. And at some point it's my  
11 understanding that Tina and/or Tim talked with  
12 Rafael about these things that they had found in  
13 the store really to get his perspective and to  
14 understand like what happened with some of these  
15 instances.

16 Q. I'd like to focus on the last thing  
17 you just referred to, that at some point -- did  
18 you say Tina McDonald or Tim Hutchinson met with  
19 Rafael or did they meet together?

20 A. I said Tim and -- Tina and/or Tim. I  
21 believe that Tina had conversations with Rafael.  
22 I believe that Tim had conversations and there may  
23 have been times where they did that together.  
24 That's my understanding.

25 Q. And what is the source or basis for

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2 your belief and understanding that those  
3 conversations with Tina and Brad for Rafael's  
4 response to these things took place?

5 A. Could you repeat the question.

6 Q. Why is it --

7 A. Why is it that --

8 Q. -- those conversations happened as a  
9 matter of fact in the manner that you described  
10 them?

11 A. When we had further dialogue, they  
12 noted specific -- sorry, Tina noted specific  
13 things that Rafael had shared with her around  
14 his -- some of these things that we had talked  
15 about, right, the predictability pay or paying  
16 partners and things like that. The log. So that  
17 led me to the conclusion that Tina had a  
18 conversation with him; and I believe that Tim also  
19 did during the course of this time as well.

20 Q. Did you ever review any documentation  
21 describing those conversations?

22 A. No.

23 Q. During any of those discussions that  
24 you believe happened involving Ms. McDonald, is it  
25 your understanding that she directed Mr. Fox to

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2 take any particular action with respect to the  
3 items that she had found?

4 MR. MOY: Objection.

5 A. I am not aware of any direction that  
6 Tina gave to Rafael in reference to the particular  
7 item.

8 Q. You had mentioned that Ms. McDonald  
9 also visited some other stores in the area. How  
10 many other stores did she visit?

11 A. If I recall correctly, I believe it  
12 was four. Three or four.

13 Q. And did she conduct those visits of  
14 all three or four stores prior to Mr. Fox's  
15 separation?

16 A. Yes.

17 Q. Do you remember specifically which  
18 any of the four stores were? Which stores they  
19 were?

20 A. I'm sorry, I don't.

21 Q. Did Ms. McDonald provide any --  
22 withdrawn.

23 When Ms. McDonald visited those  
24 stores, did she conduct a similar compliance audit  
25 to what she had done on her visit to Mr. Fox's

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2 store?

3 MR. MOY: Objection.

4 A. I wasn't present, so I don't know  
5 specifically her approach. She did report back on  
6 similar items as it relates to compliance.

7 Q. Could you describe in a little bit  
8 more detail what it is that she reported to you  
9 based on her visits to the other stores?

10 A. Sure. I don't recall the exact  
11 details of each location. She reported back  
12 around store schedules, scheduling change logs,  
13 postings of the shifts, the available shifts.  
14 Schedules, as I said, predictability payments, and  
15 I think general knowledge, the standards and  
16 expectations. This is what I recall.

17 Q. Did Ms. McDonald communicate to you  
18 that each of the stores that she had visited had  
19 some of those problems?

20 MR. MOY: Objection.

21 A. I don't recall if each store had some  
22 of those problems and how it was allocated amongst  
23 the different stores. There were definitely  
24 opportunities around the execution of the  
25 standards in some of the other locations that she

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2 think it reiterated the importance of us to  
3 continue to visit stores on an ongoing basis; and  
4 provide that coaching and the shoulder-to-shoulder  
5 leadership to ensure that we got compliance and  
6 that we're addressing it as appropriate and  
7 understanding trends and themes that are  
8 happening.

9 MR. GRAFF: I would just note briefly  
10 for the record, I had some communication with  
11 your colleague Rebecca Goldstein, Gary,  
12 yesterday. She had indicated there were  
13 documents concerning the findings of  
14 Ms. McDonald's audits of other stores that  
15 had not been produced yet and would shortly  
16 be produced. I'm only noting that I haven't  
17 received those, and this might be the point  
18 in the deposition when I would have to  
19 question the witness with the benefit of  
20 those documents.

21 Q. Back to questions, Ms. Kelly.

22 MR. MOY: One thing for the record.  
23 Insofar as there are any other audits, you  
24 can certainly ask the witness about those.

25 Q. Ms. Kelly, was it your understanding

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2 that any of the compliance issues that  
3 Ms. McDonald identified at Mr. Fox's stores  
4 resulted in any partners being owed money?

5 A. You said in Mr. Fox's stores. In his  
6 store?

7 Q. In his store, yes.

8 A. That is correct. It is my  
9 understanding that we did owe partners money.

10 Q. Did Ms. McDonald pay them that money  
11 upon identifying the problems?

12 MR. MOY: Objection.

13 A. I don't know exactly who inputted the  
14 pay adjustments to ensure that the partners were  
15 paid.

16 Q. At what point in time were the  
17 partners paid?

18 MR. MOY: Objection.

19 A. I don't have the exact date. I would  
20 say shortly thereafter, we concluded our  
21 investigation.

22 Q. Were the partners paid prior to  
23 Mr. Fox's separation?

24 MR. MOY: Objection.

25 A. I don't have that information, and



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2 had found in the stores, and our standards, and  
3 how to ensure they could consistently comply with  
4 the Fair Workweek legislation.

5 Q. And apart from that verbal coaching,  
6 are you aware of any other disciplinary  
7 consequence imposed on any of those managers?

8 MR. MOY: Objection.

9 A. Again, Tim would be the person that  
10 would deliver disciplinary action, so you would  
11 need to either speak with him about that or  
12 someone else. I wasn't involved in that.

13 Q. Were you involved in identifying,  
14 compiling information to provide to the Department  
15 of Consumer Affairs in connection with its  
16 investigation?

17 MR. MOY: Objection. What  
18 investigation, please?

19 MR. GRAFF: Of the Fair Workweek  
20 complaint that we've been talking about.

21 A. So just so I understand the question,  
22 you're asking if I was involved in compiling  
23 documents for the Department of Consumer Affairs  
24 complaint that came out of Rafael's store against  
25 him?

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2 Q. Yes.

3 A. That's the question? Okay.

4 I would say I had limited  
5 involvement. Tina was really the primary person  
6 that was gathering the documents that were needed  
7 for it and, you know, I certainly saw some of them  
8 as we prepared to make our submission. I was more  
9 involved in the general approach and how we would  
10 respond, the timeline, making sure we had the  
11 information available. Tina really was the  
12 primary person who produced the documents and put  
13 them together in partnership with legal counsel.

14 Q. As far as you know, was information  
15 concerning Ms. McDonald's inspection of stores  
16 other than Mr. Fox's provided to the DCA?

17 A. Could you repeat the question.

18 Q. As far as you know, were the  
19 materials provided to the DCA limited solely to  
20 Mr. Fox's store or did they include information  
21 about the Fair Workweek noncompliance at other  
22 stores as well?

23 MR. MOY: Objection.

24 A. So it's my understanding that the  
25 complaint revolved around the person, and so it

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2 would be dependent on whether or not the person  
3 worked in other locations.

4 Q. As far as you know, did the  
5 Department of Consumer Affairs give any sort of  
6 direction as to what disciplinary consequence, if  
7 any, should be imposed on Mr. Fox?

8 A. Could you repeat the question.

9 Q. Did the Department of Consumer  
10 Affairs make any recommendation or suggestion  
11 concerning what form of discipline would be  
12 appropriate for Mr. Fox?

13 A. Not to my knowledge.

14 Q. At some point in time, did  
15 Ms. McDonald complete her investigation?

16 A. Yes.

17 Q. Do you remember what date Mr. Fox was  
18 terminated?

19 A. I believe it was February the 8th of  
20 2018.

21 Q. How long prior to the date of  
22 termination did Ms. McDonald complete her  
23 investigation?

24 MR. MOY: Objection.

25 A. I don't know the exact date she

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2 completed her investigation.

3 Q. What was the next step in the process  
4 after Ms. McDonald had completed her fact finding  
5 investigation?

6 MR. MOY: Objection.

7 A. So for charity, her investigation for  
8 the Department of Consumer Affairs complaint or  
9 Rafael's?

10 Q. Thank you, that's an important  
11 clarification. I understood that Ms. McDonald  
12 investigated Rafael's store and found certain  
13 noncompliance issues, and that she reported those  
14 issues to you, and that at some point she  
15 completed the process of fact finding as to  
16 Mr. Fox's store. What is the next step in the  
17 process that culminated in his termination?

18 MR. MOY: Objection.

19 A. So as it -- so as it relates  
20 specifically to Rafael, when we had culminated the  
21 facts and information that we believe we needed to  
22 the discuss the next step of corrective action  
23 based on the findings, we did have a meeting to  
24 discuss what was found as it relates to Rafael  
25 specifically, as it relates to Fair Workweek

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2 compliance and his leadership in that regard.

3 Q. When you say that "we had a meeting,"  
4 who participated in that meeting?

5 A. Thank you for asking. I apologize  
6 for not being clear. It was myself, it was Brad  
7 Jennison, it was Tina McDonald, it was Carla  
8 Ruffin, and Robyn Ruderman was present as legal  
9 counsel.

10 Q. When did that meeting take place?

11 A. I don't recall the exact date. I  
12 apologize. I didn't have it noted in my  
13 notations, so I apologize.

14 Q. Where did the meeting take place?  
15 Were any of the participants physically gathered?

16 A. In the New York regional office.

17 Q. Were all of the individuals who you  
18 identified as participants physically present for  
19 the meeting?

20 A. I believe -- I'd be guessing. I  
21 believe Brad may have joined by phone.

22 Q. Who made the final decision to  
23 terminate Mr. Fox?

24 A. Carla Ruffin.

25 Q. During that final meeting, did

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2 Ms. McDonald provide any documents or records from  
3 her investigation for anybody to review as part of  
4 the meeting?

5 A. I recall her having them available.  
6 I don't recall specifically the documents, if they  
7 were reviewed or not.

8 Q. Was --

9 A. At that meeting. At that meeting.  
10 Sorry.

11 Q. Was there a draft or already written  
12 termination letter for Mr. Fox at that meeting?

13 A. No.

14 Q. Was somebody directed to draft such a  
15 letter?

16 A. So once the decision was made that  
17 Rafael was going to be separated, the direction  
18 was that Brad, the partner -- Brad Jennison, the  
19 Partner Resources Manager, would work in  
20 partnership with Carla to draft the separation  
21 notice. That was the direction at that time.

22 Q. What were the reasons for terminating  
23 Mr. Fox?

24 A. Yeah. So the reasons for  
25 termination, for separation, he was separated as

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2       an involuntary separation for policy violation,  
3       other; and the details of that separation and led  
4       to the decision for separation would be as  
5       follows: First, Rafael failed to post four  
6       schedules with the appropriate time expectations  
7       of three weeks' notice. As a result of that  
8       investigation, we had identified that. And  
9       subsequently, based on those schedules, there were  
10      partners who were owed predictability pay that  
11      Rafael had not paid.

12                      Secondly, Rafael was -- was  
13      completing the schedule change log on behalf of  
14      other partners; and so it's our standard that  
15      partners sign off and consent to the schedule  
16      changes and that we have that documented. There's  
17      business initiated changes and there's partner  
18      initiated changes, and so the partner's consent in  
19      those logs, excuse me, is a critical component in  
20      identifying that.

21                      Thirdly, Rafael was hooking to hire,  
22      and he had partners express interest in wanting  
23      the hours that he had available. Rafael made the  
24      decision to hire externally without meeting with  
25      the interim partners or getting back to them as

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2 they expressed interest in the hours that he had  
3 available in his store. And in addition to that,  
4 during points of the investigation, others have  
5 had interactions with Rafael where they didn't  
6 feel he was being transparent, and that he wasn't  
7 being forthcoming with information. And  
8 specifically by signing logs on behalf of his  
9 partners, not paying predictability pay when he is  
10 given direction to by Tina, the compliance  
11 specialist, that was a big concern for us, and  
12 that really spoke to his integrity and it breached  
13 the leadership trust in that he would actually  
14 read these standards and the law in his store in a  
15 way that we could trust.

16 And so the combination of all of the  
17 violations in the Fair Workweek, his lack of  
18 transparency in parts of the investigation, and  
19 ultimately that integrity piece where he wasn't,  
20 you know, completing activities in a way that we  
21 would expect of a Store Manager, the combination  
22 of all of those violations is what led to the  
23 decision for separation for Rafael.

24 Q. In the absence of that final what you  
25 call transparency and integrity piece, would he



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2 have been terminated for the other violations that  
3 you described?

4 MR. MOY: Objection.

5 A. It would be difficult for me to  
6 speculate the outcome. In a lot of these  
7 situations and circumstances, we're evaluating the  
8 standard, we're evaluating the legal implications,  
9 the impact on the work environment and to other  
10 partners, the brand. So it would be difficult for  
11 me to speculate. While I noted earlier there were  
12 other opportunities in other stores, the managers  
13 were more forthcoming in taking actions to make  
14 corrections and open to coaching.

15 Rafael, it was a big differentiator  
16 with him in that he wasn't following the guidance  
17 that he was being given, and that puts our partner  
18 experience at risk in our stores, and quite  
19 frankly the brand.

20 Q. Other than Ms. McDonald, were there  
21 any other individuals who provided you information  
22 supporting the conclusions about transparency and  
23 integrity?

24 A. Yes.

25 Q. Who else?

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2 A. Carla shared an example of when she  
3 had visited the store and she had asked about  
4 posted schedules, because to my understanding,  
5 again, I wasn't present, but based on what she  
6 shared, there wasn't a date printed on the  
7 schedule. And when she had some conversation with  
8 him about it, it's my understanding that she  
9 didn't feel as though he was being transparent.

10 Our schedules automatically print a  
11 date on them, so I'm not sure how it came about in  
12 that particular instance and the details around  
13 it, but Carla felt as though Rafael was not  
14 transparent and that there was an integrity  
15 concern there.

16 Q. Beside that concern that Ms. Ruffin  
17 had encountered personally, she personally  
18 discovered the date from the schedules and  
19 interacted with Mr. Fox and reached her  
20 conclusions from his responses?

21 MR. MOY: Objection.

22 A. Again, this was her personal  
23 experience that she had shared with me. So I  
24 don't have any other information other than that.

25 Q. I just wanted to confirm that it was

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2 her firsthand experience and not anecdotal.

3 A. Yes, that's correct.

4 Q. Other than Ms. McDonald and  
5 Ms. Ruffin as you just described, did any other  
6 individuals provide any other information going to  
7 the conclusions of lack of transparency and  
8 integrity?

9 A. No, only Tina and Carla.

10 Q. Did Ms. McDonald inform you or  
11 communicate in any way that she had a  
12 communication with Mr. Fox concerning Hot Shots?

13 A. During that meeting?

14 Q. Ever.

15 A. After Rafael's separation and after  
16 this case was brought forward, she did share that  
17 with me.

18 Q. During that meeting. Does that mean  
19 she didn't share it at that time?

20 A. She did not.

21 Q. During that meeting, did anybody make  
22 reference to Mr. Fox's involvement in any respect  
23 in correcting wage issues at the West Broadway and  
24 Leonard store in connection with time log  
25 manipulation?

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2 A. No.

3 Q. Did you have any input into the  
4 language of the notice of separation?

5 A. I -- so I just want to kind of back  
6 up. So earlier I said that the direction was  
7 given that Brad would work in partnership with  
8 Carla to craft the separation notice. Brad was  
9 taking time off the following week. Lisa Welch,  
10 who was his peer PRM in the region reached out to  
11 me to help get some insight on the information  
12 that would support the separation document.

13 That is an attorney-client privileged  
14 communication, so I just want to note that in that  
15 I did provide the facts as I saw them, and it was  
16 still waiting on legal advisement from Robyn  
17 Ruderman, who was also included in that. So I did  
18 outline -- I'm sorry, were you going to ask a  
19 question?

20 Q. No.

21 A. I did outline the violations as we  
22 had discussed from the meeting. The first spoke  
23 to the Starbucks standard of not having schedules  
24 posted within three weeks. Then I went into the  
25 legal violations, starting with the schedules that

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2 would also presume that Amanda Perstack was  
3 present.

4 Q. Did Tim Hutchinson participate in the  
5 meeting at which it was decided to terminate  
6 Mr. Fox's employment?

7 A. He did not.

8 Q. Did anyone provide Mr. Hutchinson  
9 with any information apart from what's stated in  
10 the termination letter concerning the basis for  
11 Mr. Fox's termination?

12 MR. MOY: Objection.

13 A. I did not, and I do not know for  
14 certainty if anyone else did or what was shared  
15 specifically with Tim Hutchinson.

16 Q. Do you have any information about the  
17 substance of what occurred during the termination  
18 meeting?

19 A. No.

20 Q. Generally when a Store Manager is  
21 involuntarily separated, is there a standard exit  
22 interview or some kind of outgoing process that's  
23 followed?

24 MR. MOY: Objection.

25 A. No.

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2 issued written warnings. I don't know with  
3 certainty all of those people that have been  
4 issued written warnings. A written warning is a  
5 level of disciplinary action that wouldn't  
6 necessarily come to my level or that I would have  
7 consistent visibility to. So I wouldn't be able  
8 to provide a complete list of people who have  
9 received a written warning as it relates to the  
10 Fair Workweek legislation.

11 Q. Were any Store Managers in New York  
12 other than Mr. Fox terminated in connection with  
13 noncompliance with Fair Workweek requirements?

14 A. Yes.

15 Q. How many other managers were  
16 terminated?

17 A. Including Rafael, in the first year  
18 there were nine managers including Rafael.

19 Q. You may have already indicated, but  
20 approximately how many stores in New York were  
21 subject to the Fair Workweek Law?

22 MR. MOY: Objection.

23 A. I believe on or about that time,  
24 there were approximately 315 stores.

25 Q. Were you involved in the decision to

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2 So I don't know that I could provide  
3 a specific answer around the details and if there  
4 were any other factors that came into the  
5 decision.

6 Q. When is the first time that a Store  
7 Manager was terminated in connection with Fair  
8 Workweek compliance after Mr. Fox?

9 MR. MOY: Objection.

10 A. On March the 1st of 2018.

11 Q. And when is the most recent time?

12 A. I wouldn't be able to speak to that  
13 because I'm no longer overseeing that region.

14 Q. Do you recall the locations of any of  
15 the eight stores where the managers were  
16 terminated?

17 A. I don't recall the exact stores, but  
18 I recall that in -- since they were nine including  
19 Rafael's, six of those nine were in area 76, which  
20 was Ron Shuler's area. Two of those were in Kate  
21 McShane's area, which is area 82; and Rafael was  
22 the one in area 146.

23 Q. To the best of your memory, have you  
24 ever met Jill Shwiner?

25 A. No. Well, we haven't met personally,

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2 Q. Was his new employment with a  
3 different employer?

4 A. Yes.

5 Q. Is Brad Jennison eligible for rehire  
6 if he were to apply for Starbucks?

7 A. Did you say eligible or ineligible?

8 Q. Eligible.

9 A. Brad is eligible for rehire based on  
10 my recollection, yes.

11 Q. You had mentioned earlier that at  
12 some point after the termination meeting,  
13 Ms. McDonald communicated something to you about a  
14 communication she'd had with Mr. Fox concerning  
15 Hot Shots. Do you recall what I'm referring to?

16 A. Yes. And I just want to provide  
17 clarity. It was after the separation of Rafael.  
18 It wasn't after the investigation. After the  
19 separation of Rafael.

20 Q. Okay. What did Ms. McDonald  
21 communicate to you at that time?

22 A. It was my understanding that Rafael  
23 shared with Tina that he had a concern about  
24 managers or other stores having Hot Shots in their  
25 stores, and that they were not an approved item



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2 break so that I can prepare. Before we do  
3 take a break, however, I do want to formally  
4 request the opportunity for the witness to  
5 review the transcript according to Rule 30E  
6 of the Federal Rules of Civil Procedure.

7 MR. GRAFF: Noted.

8 MR. MOY: So can we reconvene around  
9 6:53?

10 MR. GRAFF: Sure.

11 MR. MOY: Thank you all.

12 (Whereupon, there was a brief recess  
13 in the proceedings.)

14 Q. Ms. Kelly, did you communicate with  
15 anyone other than counsel during the break?

16 A. No.

17 Q. Did you read anything?

18 A. No.

19 Q. Before the break, we've been talking  
20 about a communication you had with Ms. McDonald in  
21 which she relayed to you a communication she'd had  
22 with Mr. Fox concerning his concern about Hot  
23 Shots. At what in time was that communication  
24 between you and Ms. McDonald?

25 A. Once I was informed of that in the

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2 case, when it was raised in the case, I asked Tina  
3 about it. So the communication happened after I  
4 was informed of this legal case.

5 Q. And the lawsuit, as we saw in the  
6 last exhibit, was filed May 21, 2019. Was it  
7 after that date that you had the communication  
8 with Ms. McDonald?

9 A. Yes, I believe so.

10 Q. Without getting into any of the  
11 substance, there had been a meeting between the  
12 parties before the lawsuit was filed that included  
13 you as a participant. Do you recall the event I'm  
14 referring to?

15 A. I do. So --

16 Q. Did the communication with  
17 Ms. McDonald happen before or after that meeting?

18 A. Yes. So I would like to correct what  
19 I shared. Once I was aware of the concerns that  
20 were brought in the legal case, so I don't know  
21 the exact terminology, and I apologize, as I said  
22 before, I didn't have the exact date, I believe --  
23 I believe I was aware, yes, before we -- I would  
24 be guessing at this point. I don't recall for  
25 sure. Once I was informed through one of the

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2 legal conversations about this case or legal  
3 documents about this case, I asked Tina about it.

4 Q. Just in terms of points of time. At  
5 a certain point in time prior to the lawsuit, I  
6 sent a letter to counsel for the company. Was  
7 your communication with Tina before or after that  
8 letter, if you know?

9 MR. MOY: Objection.

10 A. Again, I don't recall the exact  
11 timing, and I don't know the date of that letter.  
12 Yeah.

13 Q. I first wrote to the company around  
14 October 2017. You know if the communication with  
15 Tina was before or after that date?

16 MR. MOY: Objection. Ari, just  
17 clarify the year.

18 Q. October 2018.

19 A. Yeah. So I don't recall  
20 specifically. It would have been in relation to  
21 this case, you know, the first instance that it  
22 was put in writing to us that Rafael had made that  
23 concern as part of this legal case.

24 Q. Thank you. I have nothing else at  
25 this time, but I may have some more questions

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2 separation is noted in our system as involuntary  
3 deficient performance. I believe as terms of his  
4 agreement, it is voluntary in lieu of separation.

5 Q. And again, this is -- I just want to  
6 clarify. Is it your testimony that  
7 Mr. Hutchinson's separation pursuant to the  
8 separation agreement is considered a voluntary  
9 separation?

10 MR. GRAFF: Objection.

11 A. That is correct.

12 Q. Moving on with respect to  
13 Mr. Hutchinson, do you recall that during the  
14 course of this deposition, Mr. Graph asked  
15 questions about your conversation with Les Sable  
16 and Mr. Hutchinson concerning Mr. Fox's alleged  
17 reports of underpayment of wages?

18 A. Yes, I do.

19 Q. When did this conversation occur with  
20 Mr. -- with Mr. Sable and Mr. Hutchinson?

21 A. It was after the separation of Rafael  
22 Fox when we were informed that this concern was  
23 raised by Rafael, again, through these legal --  
24 through this legal case.

25 Q. Sitting here today, do you recall

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2 whether this conversation with Mr. Sable and/or  
3 Mr. Hutchinson occurred before or after the  
4 commencement of litigation by Mr. Fox?

5 MR. GRAFF: Objection.

6 A. So specifically when you mean  
7 commencement, can you share what you mean by that.

8 Q. Well, as you testified earlier today,  
9 Mr. Fox filed a complaint for legal action  
10 concerning his termination of employment, correct?

11 A. That is correct.

12 Q. And you also testified a few moments  
13 ago that you had conversations with Mr. Sable  
14 and/or Mr. Hutchinson concerning Mr. Fox's reports  
15 of alleged underpayment of wages; is that correct?

16 A. That's correct.

17 Q. I understand that based on your  
18 testimony, the conversations with Mr. Sable and/or  
19 Mr. Hutchinson occurred after Mr. Fox's separation  
20 from Starbucks; however, my question now is did  
21 your conversation or conversations with Mr. Sable  
22 and/or Mr. Hutchinson occur before or after this  
23 litigation relating to the complaint filed by  
24 Mr. Fox?

25 MR. GRAFF: Objection.

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2 A. After.

3 (Whereupon, there was a brief recess  
4 in the proceedings.)

5 Q. Did you have knowledge at the time of  
6 Mr. Fox's termination whether he had concerns  
7 about alleged underpayment of wages to store  
8 employees?

9 MR. GRAFF: I said objection.

10 A. No.

11 Q. Ms. Kelly, sitting here today, do you  
12 recall whether your conversations with Mr. Sable  
13 and/or Mr. Hutchinson about Mr. Fox's reports  
14 concerning alleged underpayment of wages occurred  
15 before or after Mr. Graff sent a prelitigation  
16 letter to Starbucks, if you are aware of any such  
17 letter to Starbucks?

18 MR. GRAFF: Objection.

19 A. Based on my knowledge, after.

20 Q. Similarly, sitting here today, do you  
21 recall whether this conversation that you had with  
22 Mr. Hutchinson and/or Mr. Sable concerning  
23 Mr. Fox's report of alleged underpayment of wages  
24 occurred before or after Mr. Fox filed a legal  
25 action at issue in this case?

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2 MR. GRAFF: Objection.

3 A. So I just want to be clear that I  
4 understand the question. So in between the first  
5 time that the demand letter was sent and a formal  
6 filing of the legal case; am I understanding that  
7 correctly?

8 Q. Correct.

9 A. Again, based on my recollection, I do  
10 believe it was within that time frame.

11 Q. It was somewhere in between?

12 A. So after the -- if it was outlined in  
13 the demand letter, whenever the first time it was  
14 outlined in writing and I was made aware of it, I  
15 would have subsequently had the conversation  
16 thereafter.

17 Q. Do you recall having knowledge of  
18 such a demand letter sent by Mr. Graph on behalf  
19 of the plaintiffs in this case?

20 MR. GRAFF: Objection, vague as to  
21 time.

22 A. It would have been in conversation  
23 with legal counsel. So based on my recollection,  
24 I do believe, unless there another document or  
25 something that was shared before I was informed.

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2 that there was a wage and hour issue reported by  
3 Mr. Fox?

4 MR. GRAFF: Objection.

5 A. I don't have that information. I  
6 don't know when Carla was made aware.

7 Q. What is the basis for your  
8 understanding that Ms. Ruffin was aware that there  
9 was a wage and hour issue reported by Mr. Fox?

10 A. I don't -- I don't recall for certain  
11 information around when Carla was made aware of  
12 that.

13 Q. Well, sitting here today, do you  
14 recall Ms. Ruffin ever reporting to you around the  
15 time of Mr. Fox's termination that Mr. Fox  
16 reported an alleged underpayment of wages to other  
17 Starbucks employees?

18 A. No, Carla never reported it to me.

19 Q. I'm going to refer you to a line of  
20 questioning by Mr. Graff regarding the discipline  
21 of Starbucks employees. There is verbal and  
22 written discipline, correct?

23 A. Correct.

24 Q. You are not aware of -- you as  
25 partner -- sorry. You as the Director of Partner



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2 Resources for the New York Metro region was not  
3 aware of every single instance of a verbal  
4 discipline, correct?

5 A. That is correct.

6 Q. As the Director of Partner Resources,  
7 were you aware of every single instance of a  
8 written warning?

9 A. No.

10 Q. Were you expected to be aware of  
11 every single instance of a verbal or written  
12 warning involving a Starbucks employee?

13 A. No. No.

14 Q. Were you ever made aware of any  
15 specific Starbucks employee who was found to have  
16 authorized the use of Hot Shots?

17 A. No.

18 Q. Prior to this litigation, were you  
19 ever made aware of any specific Starbucks  
20 employees who was found to have used Hot Shots?

21 A. No.

22 Q. And to clarify, sitting here today, I  
23 mean, just to clarify. At the time of Fox's  
24 termination, were you aware of any reports of  
25 underpayment of wages or the use of Hot Shots by

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2 Mr. Fox?

3 A. No.

4 Q. Were there any other Store Managers  
5 who were under investigation by the New York City  
6 Department of Consumer Affairs around the time of  
7 Mr. Fox's termination?

8 MR. GRAFF: Objection.

9 A. Not that I recall.

10 Q. No further questions.

11 MR. GRAFF: I have just a couple of  
12 follow-ups.

13 EXAMINATION BY MR. GRAFF:

14 Q. Ms. Kelly, is there any sort of  
15 document at Starbucks like a corrective action  
16 matrix or some sort of chart that describes  
17 different categories of infractions and correlates  
18 them to particular types of appropriate  
19 discipline?

20 A. We do -- we do have what's called a  
21 virtual coach, and this is a tool that you can go  
22 on and work through different scenarios, and it  
23 could provide a recommendation or examples; and it  
24 also would outline instances where they would  
25 recommend you reach out to either a local Partner